

**AMERICAN INTERNATIONAL INSURANCE COMPANY**  
**One AIG Center**  
**Wilmington, DE 19803-1115**

**NAIC COMPANY 32220**

**MARKET CONDUCT EXAMINATION REPORT**  
**as of December 31, 2003**

**COLORADO DEPARTMENT OF REGULATORY AGENCIES**  
**DIVISION OF INSURANCE**

**PREPARED BY INDEPENDENT CONTRACTORS FOR**  
**COLORADO DEPARTMENT OF REGULATORY AGENCIES**  
**DIVISION OF INSURANCE**

**American International Insurance Company  
One AIG Center  
Wilmington, DE 19803-1115**

**MARKET CONDUCT  
EXAMINATION REPORT  
as of  
December 31, 2003**

**Prepared by**

**Gary L. Domer, CIE**

**James H. Daughan, CPCU, CIE, AIM**

**Independent Contract Examiners**

October 7, 2004

The Honorable Doug Dean  
Commissioner of Insurance  
State of Colorado  
1560 Broadway Suite 850  
Denver, Colorado 80202

Commissioner Dean:

In accordance with Sections 10-1-203, C.R.S. and 10-3-1106, C.R.S., an examination of selected, claims, underwriting and rating practices of the American International Insurance Company's private passenger automobile business has been conducted. The Company's records were examined at the Home Office located at One AIG Center, Wilmington, DE 19803-1115. The examination covered a one-year period from January 1, 2003, to December 31, 2003.

A report of the examination of the American International Insurance Company is, herewith, respectfully submitted.

Gary L. Domer, CIE  
James H. Daughan, CPCU, CIE, AIM

Independent Market Conduct Examiners

**MARKET CONDUCT  
EXAMINATION REPORT  
OF  
American International Insurance Company**

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**COMPANY PROFILE**

## AMERICAN INTERNATIONAL INSURANCE COMPANY

American International Insurance Company (AIIC) acts as a direct writer of personal lines insurance in the state of Colorado. AIIC writes preferred and standard personal automobile and homeowners insurance. The business is produced through sponsored automobile programs with employer groups, major corporations and associations. The business is solicited using membership/customer/employee lists and other advertising media.

All new business policies, renewals and policy changes are processed in AIIC's offices in Wilmington, DE.

As of December 31, 2003, AIIC had 3937\* Private Passenger Automobile policies in force in Colorado. Additionally, AIIC reported \$5,445,000\*\* in private passenger automobile written premium in Colorado as of December 31, 2003. This represented a 1.9%\*\* market share of all private passenger automobile insurance written in Colorado.

\*Data as reported by the Company

\*\*Data as reported in the Colorado Insurance Industry Statistical report

### **PURPOSE AND SCOPE OF EXAMINATION**

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law, Section 10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to automobile insurance laws. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report

The examination was governed by, and was performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination covered twelve months of the Company's operations, from January 1, 2003, to December 31, 2003.

File sampling was based on a review of claims, underwriting and rating files systematically selected from file runs provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file, any findings were noted on a comment form and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond and was requested to agree, disagree or otherwise justify the Company's noted action.

The examination report is a report by exception and much of the material reviewed is not addressed in the written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines. When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g. timeliness of claims payment), and if one or more of the samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five percent (5%) were also included.

The report addresses only Private Passenger Automobile issues and contains information regarding exceptions to the Colorado Insurance Code. The examination included review of the following four (4) Company operations:

1. Company Operations and Management
2. Complaint Handling
3. Underwriting and Rating
4. Claims

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

**EXAMINERS' METHODOLOGY**

The examiners reviewed the Company's Private Passenger Automobile underwriting and rating practices to determine compliance with Colorado insurance laws as listed below.

**Exhibit 1**

<b>Law</b>	<b>Subject</b>
Section 10-1-205	Financial Examination Reports
Section 10-1-203	Authority, scope, and scheduling of examinations
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1106	Power of Commissioner
Section 10-3-1107	Hearings
Section 10-3-1108	Orders
Section 10-3-1109	Penalty for violation of cease and desist orders
Section 10-4-401	Purpose-applicability
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-618	Unfair or discriminatory trade practices-legislative declaration
Section 10-4-619	Coverage compulsory
Section 10-4-620	Required Coverage
Section 10-4-621	Required Coverages are minimum
Section 10-4-622	Required provision for intrastate and interstate operation
Section 10-4-623	Conditions and exclusions
Section 10-4-624	Self-insurers
Section 10-4-625	Quarterly premium payments
Section 10-4-626	Prohibited reasons for non-renewal or refusal to write a policy
Section 10-4-627	Discriminatory standards-premiums-surcharges-proof of financial resp.
Section 10-4-628	Refusal to write-changes in-cancellation-non-renewal of policies
Section 10-4-629	Cancellation-renewal-reclassification
Section 10-4-630	Exclusion of named driver
Section 10-4-631	Insurers to file rate schedule
Section 10-4-632	Reduction in rates for drivers 55 years or older/drivers ed course
Section 10-4-633	Certification of policy and notice forms
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.

Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Intercompany arbitration.
Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.
Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete driver's education course - legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Regulation 1-1-6	Certification of forms
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8.	Penalties And Timelines Concerning Division Inquires and Document Requests
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Ins. Scoring.
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations.
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 5-2-12	Concerning Automobile Consumer Protections
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.

### **Company Operations and Management**

The examiners reviewed Company management, implementation, and quality controls, record retention, installment payment plans, forms certification, and timely cooperation with the examination process.

### **Complaints**

The examiners reviewed and compared the complaint log maintained by the Division of Insurance against the Company's complaint log to verify the accuracy of the Company's tracking system. The examiners also evaluated the Company's complaint handling methodology and reviewed the reason for and disposition of complaints.

**Contract Forms and Endorsements**

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance.

Title	Form	Edition Date
General Description of Automobile Insurance Coverages	DCNI-VI	5/02
Personal Auto Policy	PP000106	6-98
Amendment of Policy Provisions-Colorado	PP0161	10-02
Federal Employees Using Autos in Gov. Business	PP0301	8-86
Optional Limits Transportation Expenses Coverage	PP0302	6-98
Towing and Labor Coverage	PP0303	4-86
Loss Payable Clause	PP0305	8-86
Extended Non-Owned Coverage for Named Individual	PP0306	6-94
Trailer/Camper Body Coverage	PP0307	6-98
Single Liability Limit	PP0309	6-98
Customizing Equipment Coverage	PP0318	6-98
Additional Insured—Lessor	PP0219	8/86
Limited Mexico Coverage	PP0321	6/98
Misc. Type Vehicle Endorsement	PP0323	6/98
Misc. Type Vehicle Amendment (Motor Homes)	PP0328	6/98
Joint Ownership Coverage	PP0334	6/98
Mexican Collision Coverage—Colorado	PP0357	6/98
Single Uninsured Motorists Limit	PP0401	6/98
Uninsured Motorist Coverage	PP0425	7/02
Property Damage Uninsured Motorist Coverage <sup>3</sup>	PP0437	4/99
Personal Injury Protection Coverage—Colorado	PP0561	12/01
Coverage for Damage to your Auto Exclusion-Endorsement	PP1301	12/99
Accidental Death Benefits	ACCD	7/90
Physical Damage Deductible Benefit (AIIC only)	AIG-400	6/97
Physical Damage Deeductible Benefit (AIIC only)	AIG-401	11/97
Amendatory Endorsement	AIG-600	7/98
Coverage for Audio, Visual and Auto Electronics	AIG-803	4/00
Amendatory Endorsement	AIG-804	7/00

Policy Processing Form	APP-CO	4/01
Named Driver Exclusion	CN01-CO	2/97
Cancellation Notice (Non Payment)	CNP-CO	1/98
Colorado Private Passenger Automobile Insurance-Disclosure	DISC-CO	10/98
Discounts	DISC-Generic	11/01
Extended Transportation Expenses Endorsement	EXTE	11/94
Ford Customer Vehicle Insurance Program Amendment	Fo1	6/97
Insurance Identification Card	Form D-200	5/99
Notice of Cancellation (Other than non-payment)	CNU-CO	1/01
Notice of Non-Renewal	NRN-CO	1/01
Notice of Cancellation for Non Payment of Premium	CNP-CO	1/98
Increased Limits of Transportation Endorsement	ILTE	5/98
Personal Injury Protection Coverage Options-Colorado	PIP-CO	1/03
Preferred Provider Organization Endorsement	PPO-CO	10/98
Uninsured Motorists Coverage Selection of Limits	UMCO-S	3/99
Uninsured Motorists Coverage Selection of Limits	UMCO-SP	3/99
Good Student Discount	GSC	1/91
Notice of Information Practices	MACT	11/00
Important Notice Regarding the Fair Credit Reporting Act	MM5003	11/01
Privacy Notice	GLBA	5/02

### **Underwriting**

The examiners reviewed Company procedures and practices for converting policies from PIP to tort liability to verify compliance with Colorado Division of Insurance policies and procedures and Colorado Insurance regulations. The review included specific samples of converted private passenger automobile policies.

**In Force Business /Cancellations/Nonrenewals/Surcharges**

For the period under examination the examiners systematically selected the following underwriting samples to determine compliance with Colorado Insurance law.

Review Lists	Population	Sample Size	Percentage to Population
In Force Business	3880	50	1%
Non-renewals	16	16	100%
Cancel After 59 days	10	10	100%
Cancel Non Pay	64	50	78%
Surcharges	52	50	96%
Tort Conversions-Mid Term	212	50	24%
Tort Conversions-Renewals	2096	50	2%

**Rating**

The examiners reviewed the rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of inforce policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, class plans, discounts, tier-rating factors, and final premium calculations.

**Claims**

The examiners reviewed the company's claims handling procedures and the timeliness and accuracy of PIP payments.

Review Lists	Population	Sample	Percent to Population
Closed without payment	196	50	26%
PIP Paid Claims	588	50	9%
All Other Paid Claims	524	50	10%

### **EXAMINATION REPORT SUMMARY**

The examination resulted in seven (7) issues arising from the Company's apparent failure to comply with Colorado statutes and regulations that govern all property and casualty insurers operating in Colorado. These issues involved three (3) of the four (4) categories of Company operations examined as follows:

**Company Operations and Management:** In the area of company operations and management two (2) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements that must be followed by the Company in the issuance, cancellation, and non-renewal of policies of insurance. It is recommended that the Company review operating and management practices and procedures and make the changes necessary to ensure future compliance with applicable statutes and regulations. The issues in this area are:

- Failure to offer collision coverage as required by Colorado Insurance law.
- Certification and use of a non-complying form.

**Complaint Handling:** In the area of complaint handling no compliance issues are addressed in this report.

**Underwriting and Rating:** In the area of underwriting and rating four (4) compliance issues are addressed in this report. These issues arose from Colorado statutory and regulatory requirements that must be complied with whenever policies are canceled, non-renewed, premiums increased or decreased, or surcharged. It is recommended that the Company review its underwriting and rating practices and procedures and make the changes necessary to ensure future compliance with applicable statutes and regulations as to each issue.

- Failure to include all required information on the cancellation notice.
- Failure to send notice of change when converting policies mid-term from No Fault to Tort System.
- Failure to timely send notice of premium change when renewing policies from No Fault Auto to Tort System.
- Failure, in some cases, to send notice of premium increase.

**Claims Handling**: In the area of claims handling one (1) compliance issue is addressed in this report.

- Failure, in some cases, to timely pay PIP benefits.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance. Results of any previous Market Conduct Exams are available on the Colorado Division of Insurance's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Colorado Division of Insurance.

**AMERICAN INTERNATIONAL INSURANCE COMPANY**

**PERTINENT FACTUAL FINDINGS**

**PRIVATE PASSENGER AUTO**

**PERTINENT FACTUAL FINDINGS**  
**OPERATIONS AND MANAGEMENT**

**Issue A: Failure to offer collision coverage as required by Colorado Insurance law.**

Section 10-4-710, C.R.S., Required coverages are minimum, provides, in part:

(2) All insurers shall offer collision coverage for damage to insured motor vehicles subject to deductibles of one hundred dollars and two hundred fifty dollars. Insurers may offer such other reasonable deductibles as they deem appropriate. Collision coverage shall provide insurance without regard to fault against accidental property damage to the insured motor vehicle with another motor vehicle or motor vehicle caused by physical contact of the insured with another object or by upset of the insured motor vehicle, if the accident occurs within the United States, its territories or possessions, Canada, or Mexico.

Section 10-4-621, C.R.S., Required coverages are minimum, effective July 1, 2003, provides, in part:

(2) All insurers shall offer collision coverage for damage to insured motor vehicles subject to deductibles of one hundred dollars and two hundred fifty dollars. Insurers may offer such other reasonable deductibles as they deem appropriate. Collision coverage shall provide insurance without regard to fault against accidental property damage to the insured motor vehicle with another motor vehicle or motor vehicle caused by physical contact of the insured with another object or by upset of the insured motor vehicle, if the accident occurs within the United States, its territories or possessions, Canada, or Mexico.

The Company's manual, American International Insurance Company-Underwriting Guidelines, (ed.04-20-01) page 4-2, states:

**COLLISION COVERAGE**

A \$250 deductible is the most common selection; however, \$50 to \$1000 is allowable.

**This coverage cannot be offered without Comprehensive coverage**

Requiring comprehensive coverage as a condition precedent to writing collision coverage may be a violation of Colorado Insurance law.

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**Recommendation #1:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-710 and 10-4-621, C.R.S. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has corrected its procedures to ensure that collision coverage is offered without other conditions in compliance with Colorado insurance law.

**Issue B: Certification and use of a non-complying form.**

Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(u) *Certifying pursuant to section 10-4-725 or issuing, soliciting, or using* [emphasis added] an automobile policy form, endorsement, or notice form that does not comply with statutory mandates. Such solicitation or certification shall be subject to the sanctions described in sections 10-3-1107, 10-3-1108, and 10-3-1109.

Colorado Insurance Regulation 5-2-3, Auto Accident Reparations Act (No Fault) Rules and Regulations, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109, 10-4-704, 10-4-704, and 42-1-204, C.R.S., amended effective February 1, 1998, December 1, 2000, and May 1, 2001, states, in part: ...

E. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

2. Notice of proposed actions....

b. Insurers proposing to cancel, nonrenew, increase premium or reduce cover age shall prominently display on the notice form, within or adjoining the paragraph entitled "*Your Right to Protest,*" the following premium payment instructions: [Emphasis added]

*In order to continue your coverage during the period the proposed action is protested, you must continue to make payments according to your current premium payment plan until a decision is made by the hearing officer. You may contact your producer (agent) or the company at (phone number) for further information. Please note that the company may bill you later for any premium difference occurring if the company's action is upheld. This is the only notification you will receive to pay the premium due to continue coverage. If the premium is not paid prior to the effective date of the action listed on the notice, the coverage will lapse.*

Company form CPN-CO (1/98), Notice of Cancellation, was in used during the examination period, and was certified to the Division of Insurance as a complying form. However, the form did not contain the above italicized language.

Certification and use of a non-complying form may be a violation of Colorado Insurance law.

**Recommendation #2:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Section 10-3-1104, C.R.S. and Colorado Insurance Regulation 5-2-3. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has corrected its procedures to ensure that certified forms are in compliance with Colorado insurance law.

**PERTINENT FACTUAL FINDINGS**

**UNDERWRITING AND RATING**

**Issue C: Failure to include all required information on the cancellation notice.**

Section 10-4-720, C.R.S., Cancellation-renewal-classification, states, in part: ...

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before thirty days prior to the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at his last known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form which has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules or regulations promulgated by the commissioner:

- (a) The proposed action to be taken, ...
- (b) The proposed effective date of the action;
- (c) The insurer's actual reasons for proposing to take such action. ...

Colorado Insurance Regulation 5-2-3, Auto Accident Reparations Act (No Fault) Rules and Regulations, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109, 10-4-704, 10-4-704, and 42-1-204, C.R.S., amended effective February 1, 1998, December 1, 2000, and May 1, 2001, states, in part: ...

E. Rules Limiting Insurers' Action To Refuse To Write, Cancel, Nonrenew, Increase Premium, Surcharge Or Reduce Coverages

2. Notice of proposed actions....

b. Insurers proposing to cancel, nonrenew, increase premium or reduce cover age shall prominently display on the notice form, within or adjoining the paragraph entitled "Your Right to Protest," the following premium payment instructions: [Emphasis added.]

*In order to continue your coverage during the period the proposed action is protested, you must continue to make payments according to your current premium payment plan until a decision is made by the hearing officer. You may contact your producer (agent) or the company at (phone number) for further information. Please note that the company may bill you later for any premium difference occurring if the company's action is upheld. This is the only notification you will receive to pay the premium due to continue coverage. If the premium is not paid prior to the effective date of the action listed on the notice, the coverage will lapse.*

**Policies Cancelled for Non-Payment**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
64	50	50	100%

An examination of fifty (50) policies, representing 78% of all policies cancelled for non-payment by the Company in Colorado from January 1, 2003 through December 31, 2003, showed fifty (50) exceptions (100%) of the sample in which the Company failed to provide all required information when providing notice of policy cancellation.

Company form CNP-CO (1/98) was in use by the company during the period of the exam, but did not contain the above italicized language required by Colorado Insurance law.

Failure to provide the required information when canceling policies may be a violation of Colorado Insurance law.

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**Recommendation #3:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Section 10-4-720, C.R.S. and Colorado Insurance Regulation 5-2-3. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has corrected its cancellation forms to include all required information to ensure compliance with Colorado Insurance law.

**Issue D: Failure to send notice of change when converting policies mid-term from No Fault Auto to Tort System.**

Colorado Insurance Regulation 5-2-11, Transition from No-Fault Auto to Tort System, promulgated pursuant to Sections 10-1-109 and 10-4-601.5, effective July 1, 2003, provides, in part:

Section 5 Rules

M. Except as provided in section 5(N), on or before the tenth (10<sup>th</sup>) calendar day before the effective date of the change to the policy where the insurer is first converting a no-fault policy to a tort policy, the insurer *shall send by first-class mail written notice of the change* [emphasis added] to the named insured at the insured's last known address. The notice shall state in clear and specific terms all of the following: ...

N. Where the insured requests that the carrier convert the policy mid-term, and the insurer agrees to convert the policy, *insurers shall mail the notice to the insured as required in section 5(M) or within 10 calendar days after the change becomes effective*, [emphasis added] or shall provide the same information required in section 5(M) in the same medium in which the request was made. The insurer must maintain adequate proof that the information was provided. Adequacy will be determined by the division.

**Policies Converted to Tort at Policyholder's request**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
212	50	50	100%

An examination of fifty (50) policies, representing 24% of all policies converted to tort by the Company in Colorado from July 1, 2003 through December 31, 2003, when requested by the policyholder, showed fifty (50) exceptions (100%) of the sample in which the Company failed to send a written notice of change to the named insured.

Failure to send a written notice of the change from no-fault to a tort policy may be a violation of Colorado Insurance law.

**Recommendation #4:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Colorado Insurance Regulation 5-2-11. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has corrected its procedures to notify insureds in a timely manner regarding mid-term conversion from No-Fault Auto to the Tort System to ensure compliance with Colorado insurance law.

**Issue E: Failure to timely send notice of premium change when renewing policies from No-Fault Auto to Tort System.**

Colorado Insurance Regulation 5-2-11, Transition From No-Fault Auto to Tort System, promulgated pursuant to Sections 10-1-109 and 10-4-601.5, effective July 1, 2003, provides, in part:

Section 5 Rules

- M. Except as provided in section 5(N), on or before the tenth (10<sup>th</sup>) calendar day before the effective date of the change to the policy where the insurer is first converting a no-fault policy to a tort policy, the insurer shall send by first-class mail written notice of the change to the named insured at the insured's last known address. The notice shall state in clear and specific terms all of the following: . . .
1. The proposed action to be taken, including, if the change is a change in premium or change in coverage, *the amount of the premium, the type of coverage to which the premium change is applicable, the type of coverage increased or reduced, and the extent of the change in coverage* (italics added).
    - a. In the notice, insurers shall make reasonable efforts to express the amount of any premium change as a dollar amount allocated among the various coverages.
    - b. *If an insurer is unable to comply with section 5(M)(1)(a) within the required timeframe, the insurer shall include in the notice a statement that the allocation of the premiums for the various coverages will be identified no later than when the policy is issued.* [Emphasis added]. In addition, the insurer shall be prepared to justify the failure to the division to the satisfaction of the division.
    - c. In no event shall a policy be issued that does not clearly differentiate the premiums for the various coverages.

**Policies Converted at Renewal**

Population	Sample Size	Number of Exceptions	Percentage to Sample
2096	50	50	100%

An examination of fifty (50) policies, representing 24 % of all policies converted to from no-fault to tort by the Company at renewal in Colorado from July 1, 2003 through December 31, 2003, showed fifty (50) exceptions (100% of the sample) in which the Company failed to send a notice of premium change to the named insured.

Letters were sent to renewal policy holders notifying them that a subsequent letter would be sent describing the amount of premium change as provided in 5(M)(1)(b) above. The second letter was not sent until after the renewed policies were issued.

Failure to send a notice of premium change, no later than when the policy is issued, may be a violation of Colorado Insurance law.

**Recommendation #5:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Colorado Insurance Regulation 5-2-11. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has corrected its procedures to send written notice in a timely manner regarding premium changes when renewing policies from No-Fault Auto to the Tort System.

**Issue F: Failure, in some cases, to send notice of premium increase letters as required by Colorado Insurance law.**

Section 10-4-720, C.R.S., Cancellation – nonrenewal – reclassification states, in part:

(1) Except in accordance with the provisions of this part 7, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 7, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 7.

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

Section 10-4-629 C.R.S., Cancellation – nonrenewal – reclassification, effective July 1, 2003, states, in part:

(1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

**Policies Surcharged**

<b>Population</b>	<b>Sample Size</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
52	50	5	10%

An examination of fifty (50) policies, representing 96% of all policies surcharged by the Company at renewal in Colorado from January 1, 2003 through December 31, 2003, showed five (5) exceptions (10%) of the sample in which the Company failed to send a notice of premium increase to the named insured.

Failure to send a notice of increase of premium when surcharging policies may be a violation of Colorado Insurance law.

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**Recommendation #6:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Sections 10-4-720 and 10-4-629, C.R.S. If the Company is unable to provide such documentation, it should be required to provide documentation demonstrating that it has revised its procedures involving policy surcharges to ensure future compliance with Colorado Insurance law.

**PERTINENT FACTUAL FINDINGS**

**CLAIMS PRACTICES**

**Issue G: Failure, in some cases, to timely pay PIP benefits.**

Section 10-4-708 (1), C.R.S., Prompt payment of direct benefits, states:

Payment of benefits under the coverages enumerated in section 10-4-706 (1)(b) to (1) (e) or alternatively, as applicable, section 10-4-706 (2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation. If reasonable proof is not supplied as to the entire claim, the amount supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. Any part or all of the remainder of the claim that is later supported by reasonable proof is overdue if not paid within thirty days after such proof is received by the insurer. In the event that the insurer fails to pay such benefits when due, the person entitled to such benefits may bring an action in contract to recover the same.

Colorado Insurance Regulation 5-2-8, Timely payment of Personal Injury Protection benefits, promulgated by the Commissioner of Insurance under the authority of Sections 10-1-109, 10-4-704, 10-4-708(1.3) and 10-3-1110(1), C.R.S., effective November 1, 1997, amended September 1, 2000, provides, in part:

**B. Prompt Payment of PIP Benefits**

Section 10-4-708(1), C.R.S., provides that benefits under the coverages enumerated in Section 10-4-706, C.R.S., are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

Section 10-4-708(1), C.R.S., allows for the accumulation of claims expense for periods not exceeding one month and provides that benefits are not overdue if paid within 15 days after the end of a defined period of accumulation. An insurer is permitted by this statute to pay a bill within 15 days after the end of a defined accumulation period only when there is a reasonable likelihood that multiple providers are involved and more than one bill is received during the accumulation period.

**C. Requirements Establishing Proof of the Fact and Amount of Expenses Incurred**

**1. Medical and Rehabilitative PIP benefits**

In the usual case, for purposes of triggering the 30-day time period described in Section 10-4-708(1), C.R.S., the following documents are sufficient to establish reasonable proof of the fact and amount of the expenses incurred for covered medical and rehabilitative PIP benefits:

- a. A properly executed application for benefits from the PIP claimant;  
and

- b. An initial notice to the insurer from the provider of benefits which meets the requirements of Section 10-4-708.5, C.R.S. or a billing statement for the procedure or treatment which complies with Section 10-4-708.6, C.R.S., and includes pursuant to Section 10-4-708.5 the following:
- (1) The name and address of the treating health care provider;
  - (2) The evaluation of diagnosis, and the medical procedure performed or the medical treatment provided; and
  - (3) An itemized statement of charges corresponding to the medical service or treatment provided along with corresponding dates of service.

**PIP Claims Paid**

Population	Sample Size	Number of Exceptions	Percentage to Sample
588	50	16	32%

An examination of fifty (50) paid claims, representing 9% of all PIP claims paid by the Company in Colorado during 2003, showed sixteen (16) exceptions (32% of the sample) in which at least one bill was not paid within the 30 day statutory standard.

Failure to pay PIP claims within the thirty (30) day statutory time period may be a violation of Colorado insurance law.

**Recommendation # 7:**

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Section 10-4-708, C.R.S. and Colorado Insurance Regulation 5-2-8. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has reviewed all procedures related to the timeliness of claims handling and has implemented all necessary changes to ensure compliance with Colorado insurance law.

**Market Conduct Examination  
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Participated in this examination and in the preparation of this report